

# INFORMATION LINE



2nd Quarter FY 07— EEO

April 11, 2007

FORT BRAGG EQUAL EMPLOYMENT OPPORTUNITY (EEO)

## Commitment to Equal Employment Opportunity (EEO)

Equal employment opportunities means eliminating barriers to ensure that all employees are considered for the employment of their choice and have the chance to perform to their maximum potential. EEO practices are a powerful way to increase business efficiency, competitiveness and profitability. An inclusive and tolerant workplace motivates employees to perform to the best of their ability. It promotes understanding between people creating a stronger and more focused team. It also enables people to balance their lives outside of work with their responsibilities at work so they can be focused and creative in all aspects of their lives.

As the Fort Bragg EEO staff develops its mission and vision and re-evaluate where the program should be in 25 years, it has become apparent that those that make decisions must be committed to and embrace the ideal of human capital and equal employment opportunities.

Regardless of the size of an organization, people are the number one asset. Everyday, commanders, managers, and supervisors make hiring, promotion, reorganization, pay change, and other decisions that directly affect their employees. If making such decisions is part of the job, one must ensure not only that those decisions help meet the organization's overall objectives

but also consider the effect decisions have on employees.

### Contact Information:

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## Name Change for Office of Complaint Investigations



Effective, October 1, 2006, the Office of Complaint Investigations (OCI) changed its' name to Investigations and Resolutions Division (IRD).

This change was made to place more emphasis on the resolution aspect of EEO complaints. Managers and supervisors are encouraged to resolve EEO complaints,

when possible, at the administrative (lowest) level.

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### Special Emphasis Program

- Women's Equality Day Observance Workshops  
August 23, 2007, NCO Club, 1130-1300
- Disabilities Awareness Month Luncheon  
October 10, 2007, Officers' Club, 1130-1300
- American Indian Heritage Month Luncheon  
November 14, 2007, Officers' Club, 1130-1300

## The Mission and Vision of Fort Bragg EEO



*"The best way to predict the future is to invent it"*  
- **Alan Kay, scientist, inventor.**

One of the key characteristics of high-performance organization and teams is that they have a clear picture of what they are trying to create together. They are excited and clear about their purpose and their shared mission and vision, which constitutes the glue that keeps people, teams and organizations responsive and innovative in new situations.

### Mission Statement

*Educate, evaluate, and advise customers in order to ensure fair and equitable treatment and prevent unlawful employment practices; while enhancing partnerships with the greater Fort Bragg community.*

### Vision Statement

*Spearheading a model EEO program; the premiere resource for ensuring equality, dignity, and respect throughout the greater Fort Bragg community.*

## Workforce Recruitment for Students with Disabilities:

The Workforce Recruitment Program for College Students with Disabilities (WRP) is a resource to connect employers with highly motivated postsecondary students and recent graduates with disabilities who are eager to prove their abilities in the workforce. This program is a win-win situation.

Fort Bragg supports the employment of individuals with disabilities. The Indi-

vidual with Disabilities Program Manager uses the WRP as an avenue to place college students in the Fort Bragg workforce. During FY 2003-2006, five students were placed in the workforce. These students were provided meaningful and challenging assignments. Fort Bragg has requested two WRP students for



FY07. Fort Bragg trained and gained qualified candidates and the students gained valuable work experience with the federal government. Fort Bragg's goal is to increase the hiring of individuals with a targeted disability by one employee each year until the workforce represents 2% of individuals with targeted disabilities.

"Employees with disabilities continue to prove their abilities to contribute to the success of their workplace."

## Costs Associated with Filing an EEO Complaint



**How much does it cost the government to**

**process an EEO Complaint?**

- \$325/ Investigation
- \$1017+ /Court Reporter Fee to take verbatim transcript of the investigation

- \$1017+/Court Reporter Fee to take verbatim transcript of the hearing
- \$\$\$ Loss productivity / Employees are away from their workplaces
- \$\$\$ Time -CPAC Representative, EEO Personnel, Staff

Judge Advocate, supervisors, directors, employees, and witnesses time away from work

Agencies should promote resolution of disputes at an early stage to avoid timely and costly investigations.



## FORT BRAGG EQUAL EMPLOYMENT OPPORTUNITY (EEO)

### IS THE FEDERAL GOVERNMENT RESPONSIBLE FOR EEO FORMAL COMPLAINTS FILED BY CONTRACT WORKERS? - **KNOW THE RULES**

Our government is responsible for ensuring that the Federal workplace is free of discrimination. The Federal EEO process is designed to eradicate discrimination, in part, through the processing of informal and formal complaints of discrimination filed by Federal employees, former employees, and applicants for Federal employment.

The definition of "employee," as used in connection with the anti-discrimination statutes, is based on an analysis of whether the government controls the means and manner of the worker's performance, not simply whether the government pays the worker's salary (the traditional definition of "employee"). The work of our government is performed more and more frequently by contingent or contract employees ("contractor"), many of whom are working at government sites under the direct or indirect management of Federal employees.

These contractors are employed by contract companies, who have hiring and firing authority over them, although often a Federal agency's request-or demand-that a contractor no longer be assigned to the Federal worksite will result in the contractor's termination from employment by the contract company. When the Federal agency actually controls the contractor's employment, s/he may be deemed an "employee" of the Federal agency by Equal Employment Opportunity Commission and court standards.

As we all know, there is no mechanism in the EEO regulations for dismissal of an informal complaint. All informal complaints are referred for counseling, except those that are "like or related" to complaints already in the system. This is, of course, in the government's best interest—to both eradicate discrimination and resolve all workplace disputes. This is true whether the complaint would be dismissed at the formal stage or not, and regardless of whether the complaining party is a Federal employee or contractor.

Fort Bragg is counseling more and more informal complaints initiated by contractors working at Federal sites. As with all counseling, the EEO Counselor has dual responsibilities: to both conduct an informal inquiry, and attempt resolution at the lowest possible level. However, when the complaining party is a contractor, the EEO

counselor has an additional responsibility to collect information about the relationship of the complaining party to his or her contract company and to the Federal agency, so that the Agency has what it needs to make an informed decision on acceptance/dismissal, should a formal complaint be filed.

Essentially, the acceptance/dismissal decision is going to be based on a determination of who controls the means and manner of the worker's performance. If the Federal agency sufficiently controls and directs the work-to include both how the work is performed and the results to be achieved—an employer/employee relationship is likely to exist between the Federal agency and the worker. The EEOC has published guidance, based on a Supreme Court case, *Nationwide Mutual Insurance Company v. Darden*, 503 U.S. 318 (1992), that identifies the factors to be used in assessing whether the Federal agency exercises control over the worker's employment. These include:

1. Who controls when, where, and how the worker performs the job?
2. Who furnishes the tools, materials, and equipment?
3. Whether the work is performed on agency premises?
4. Who assigns the work?

When assessing the government's responsibility of contingent or contract workers, the following questions need to be answered by the Contract Officer's Representative:

1. Does a contract describing the working relationship between the individual and the Army exist?
2. Are you the Contracting Officer's Representative or Army official responsible for the project the individual is working on? Please provide your name, title, phone number, and e-mail address, and provide the same information for any other key players.
3. How is the individual paid and who determines his/her rate of pay?
4. What type of work does the individual do for the Army?
5. Is there an end product expected on completion of the individual's contract? If so, what is it and when is it due?
6. Who assigns work to the individual?
7. Does the individual report to an office

provided by the Army?

8. What equipment, materials and supplies does the individual need to do his/her work for the Army and who provides them?

9. Does the individual do work for anyone else besides the Army?

10. If a government contractor employs the individual, does that contractor provide an on-site supervisor?

11. Does the Army/DFAS withhold social security taxes or other taxes from the individual's compensation?

12. Does the Army provide medical insurance for temporary or long-term disabilities?

13. Does the Army reimburse the individual for any expenses? 14. How were the individual's working hours established?

15. Who determines whether the relationship between the individual and the Army will continue and on what basis is that determination made?

16. Is a performance evaluation prepared on the individual? If so, who prepares it and what input do Army officials provide?

17. To whom does the individual submit leave requests, and who approves those requests?

18. What are the details of any documents or conversations showing that the individual was not being hired as an employee of the Army?



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